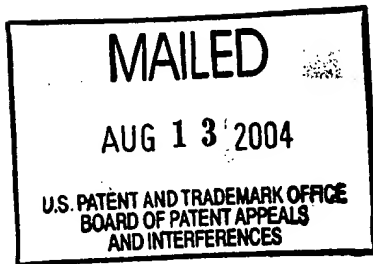


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NIGEL VICTOR SPURR

Appeal No. 2004-1599
Application No. 09/784,466

ON BRIEF

Before PAK, WARREN, and OWENS, Administrative Patent Judges.
PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1 through 7 and 15 through 21. Claims 8 through 14, the remaining claims in the present application, stand withdrawn from consideration by the examiner as being drawn to a non-elected invention.

APPEALED SUBJECT MATTER

Claims 1 and 21 are representative of the subject matter on appeal and read as follows:

1. An actuator assembly comprising:

an actuator drivingly connected by a transmission path to an output member, said actuator being operable to apply a force in a first direction to drive said output member in the first direction from a rest condition to an actuated condition, and also being operable to apply a force in a second direction to drive said output member in the second direction from said actuated condition to said rest condition; and

an energy storing member, in which movement of said output member by said actuator in said first direction is assisted by said energy storing member and movement of said output member by said actuator in said second direction stores energy in said energy storing member.

21. A method of operating an actuator assembly having an actuator, an output member, and an energy storing member, comprising:

driving the actuator to apply a force in a first direction to drive the output member in the first direction from a rest condition to an actuated condition;

applying a stored energy force from the energy storing member in the first direction to assist the actuator in driving the output member in the first direction;

driving the actuator to apply a force in a second direction to drive the output member in the second direction from the actuated condition to the rest condition; and

storing energy in the energy storing member when the actuator applies the force in the second direction.

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REJECTION

Claims 1 through 7 and 15 through 21 stand rejected under 35 U.S.C. § 102(b) as anticipated by the disclosure of U.S. Patent 5,180,038 issued to Arnold et al. on Jan 19, 1993 (hereinafter referred to as "Arnold").

OPINION

We have carefully reviewed the claims, specification and applied prior art, including all of the arguments advanced by both the examiner and the appellant in support of their respective positions. This review has led us to conclude that only the examiner's Section 102(b) rejection of claims 1 through 7, 15 and 17 through 21 is well founded. Accordingly, we only affirm the examiner's Section 102(b) rejection of such claims for essentially those reasons set forth in the Answer and below.

For Arnold to anticipate the claimed subject matter, it must disclose every feature of the claimed invention, either explicitly or inherently. *See, e.g., Hazani v. Int'l Trade Comm'n*, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed. Cir. 1997); *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

Here, there is no dispute that Arnold teaches an actuator system comprising a reversible direct-current motor 50 corresponding to the claimed actuator connected by a transmission path (e.g., screw shaft 36) to a movable member 8 corresponding to the claimed output member, wherein the motor 50 (actuator) is energized to apply a force in a second direction to drive the movable member 8 (output member) left from an actuated condition to a rest condition (the brake-released position), thus compressing (storing energy in) a main compression spring (30) corresponding to the claimed energy storing member. Compare the final Office action dated October 31, 2002, pages 2 and 3, and the Answer, page 3, with the Brief and the Reply Brief in their entirety; see also Arnold, column 5, line 64 to column 6, line 20. Nor is there any dispute that Arnold teaches using a stored energy force (compression) in the spring (30) (energy storing member) to assist the movement of the movable member 8 (output member) in a first direction (right) from the rest condition to the actuated condition. Compare the final Office action dated October 31, 2002, pages 2 and 3, and the Answer, page 3, with the Brief and the Reply Brief in their entirety; see also Arnold, column 6, lines 26-39.

With respect to claims 1 and 21, the appellant only argues that Arnold does not teach the use of the (actuator) motor (50) to

apply a force in the first direction as required by claims 1 and 21. See the Brief and the Reply Brief in their entirety. We do not agree with the appellant for the reasons set forth by the examiner in the Answer. Specifically, we observe that Arnold teaches (column 6, lines 31-39 and column 8, lines 37-42) that:

Main compression spring 30 then expands to displace the moveable member to the right toward the illustrated brake applied position. If desired, during this movement of movable member 8 to the right toward the brake-actuated position, the electric motor 50 may be operated ... to control the speed of return travel of the movable member

... said electric motor is a reversible direct-current motor (50); and further including means for operating said motor when said movable member is in the brake-applied position to **further drive** the movable member in the brake-applied direction. [Emphasis added].

Implicit in these teachings is that both the electric motor and the spring assist the movement of the movable member 8 at least during one point in which the movable member 8 moves toward right (the brake-applied direction).

Thus, we concur with the examiner that Arnold teaches each and every feature of the subject matter recited in claims 1 and 21.¹

¹ We also agree with the examiner that claim 1 is broader than claim 21 in that claim 1 merely requires that the motor 50 be "capable" of applying a force in first and second (opposite) directions to drive a movable member (rather than actually using the motor to apply a force in the first and second directions to
(continued...)

The appellant takes the position that Arnold does not teach the limitations of claims 2 through 4, 15 and 17 through 20. See the Brief, pages 7-9. In support of this position, the appellant repeats the same argument indicated above. **Id.** Thus, we are not persuaded by this argument either for the same reasons indicated **supra.**

The appellant argues that Arnold fails to anticipate the subject matter recited in claims 5, 6 and 7.² See the Brief, pages 7-8 and the Reply Brief, pages 2-3. We do not agree. As correctly found by the examiner at pages 5 and 6 of the Answer, Arnold discloses employing a crutch spring 70 which is encompassed by the claimed friction detent mechanism.³

However, claim 16 is on different footing. Although the appellant asserts that Arnold does not teach that the first and

¹(...continued)
drive the movable member).

² Pursuant to 37 CFR § 1.192(c)(7)(2003), we focus on claim 5 since the appellant states that "[c]laims 5, 6 and 7 stand or fall together." **See In re McDaniel**, 293 F.3d 1379, 1384, 63 USPQ2d 1462, 1465-66 (Fed. Cir. 2002).

³ The claims in a pending application are given the broadest reasonable interpretation (**see In re Zletz**, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from the application specification are not read into the claims (**see Sjolund v. Musland**, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)).

second directions of its movable member are rotational as required by claim 16, the examiner does not identify any particular description in Arnold which would have anticipated such subject matter. Compare the Brief, page 8, with the Answer and the final Office action in their entirety. Thus, on this record, we are constrained to agree with the appellant that the examiner has not establish a *prima facie* case of anticipation with regard to the subject matter recited in claim 16.⁴

CONCLUSION

In summary:

- 1) The rejection of claims 1 through 7, 15 and 17 through 21 under 35 U.S.C. § 102(b) is affirmed; and
- 2) The rejection of claim 16 under 35 U.S.C. § 102(b) is reversed.

Accordingly, the decision of the examiner is affirmed-in-part.

⁴ According to page 5 of the specification, the limitation recited in claim 16 is said to be a further embodiment of the claimed invention. Figure 1 does not illustrate this further embodiment of the claimed invention. However, Figure 3 illustrates an actuator assembly which encompasses this further embodiment of the claimed invention. It appears that this further embodiment is directed to a non-elected invention.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART


CHUNG K. PAK

CHUNG K. PAK
Administrative Patent Judge

Ch. E. Schum

CHARLES F. WARREN
Administrative Patent Judge

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APPEALS
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